

2024:PHHC:077430



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-18562-2024
Reserved on : 28.05.2024
Pronounced on : 29.05.2024

Om Parkash @ Babbar Petitioner

versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Deepender Singh, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

Mr. Ajay Rawat, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

1. This is second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.345 dated 31.08.2021, registered for the offences punishable under Sections 147, 148, 302, 323 and 506 of IPC and Sections 25/54/59 of Arms Act (Sections 364, 212 IPC and Section 30 of Arms Act added later on) at Police Station Ballabgarh Sadar, District Faridabad.
2. As per the contents of the FIR, it has been alleged as under:-

“To, The SHO, Police Station Sadar, Ballabgarh. Sir, it is, submitted that I, Dharmender son of Samay Singh, am a Resident of Village Sotai and do agricultural work. Yesterday, on 30.08.2021, on the festival of Janmashtmi, I brought pot of curd

2024:PHHC:077430



(Dahi Ki Matki) from Vrindavan and was offering it at Shiv Mandir, Bhatpura Road, Sotal. I and my family were at the temple where Om Prakash son of Ranjita, Naveen son of Tejpal and his family had already offered the dahi ki matki. At that time, Om Prakash with Narvir @ Sonu was holding pistol in his hand, Tejpal @ Chhanga son of Ranjita was holding farsa, Kanwar Pal @ Bholi son of Ranjita was holding lathi in his hand, Om Prakash @ Babbar son of Ranjita was holding a sword in his hand, Naveen @ Nanga son of Tejpal was holding a Farsa, Rohit Rana was holding a danda in his hand, Yogesh son of Roop Chand was holding a danda, Lekhu son of Joginder was holding a danda, Chandra Bhan son of Sahjad was holding a danda, Suryadev son of Bachchu was holding a danda, Manoj son of Ranbir was holding a danda who already in connivance were ready for a quarrel and beating. Chandra Bhan threatened me to kill, rebuked and said that today you would be made to experience the reaction of earlier quarrels. I still with folded hands tried to take my family from there when my son Pushpender, Pradeep son of Bijender, Jitu son of Babu Ram, Bahadur son of Om Prakash, were following the family. I did not know that my son Bhupender was behind us. The above mentioned all by shutting the mouth of my son took him forcibly in a field of paddy. When we had moved some steps ahead of the temple, fire shot was heard. We saw by turning behind and ran towards sound of fire when all above mentioned were beating my son; we tried to rescue him, the all attacked on us and during the defence, Pushpender, Pradeep, Jitu and Bahadur were caused injuries and

2024:PHHC:077430



saying that today you are saved but the score shall be settled later on (left). When I picked my son Bhupender from the field of paddy, he disclosed that above all by shutting my mouth brought me here by forcibly dragging and Narvir @ Sonu had shot me and they all attacked with the weapons held by them. Saying this, my son Bhupender fell unconscious. I took my son for treatment to Sarvodaya Hospital where Doctor declared my son dead. So, your goodself is requested that strict legal action be taken against all accused and justice be extended to me and my family. Sd/- DHARMENDER Applicant.xxxx”

3. Counsel for the petitioner submits that the alleged occurrence is stated to be of 31.08.2021 at 00.45 hours, whereas the complaint for registration of FIR was received on 31.08.2021 at 12.30 p.m. i.e. after delay of 12 hours. Further reference to the contents of the FIR which shows that when the police party met the complainant and his family members in hospital at 01.00 a.m. on 31.08.2021. It has been recorded as under:-

“Dharmender father of deceased and other family members told that they would get their statement recorded after due thoughts (soch samaj kar).”

4. He thus submits that concoction cannot be ruled out. Further submits that the fatal injury on the body of the deceased has been attributed to co-accused Narvir @ Sonu and not to the petitioner.

5. The petitioner has been implicated in the statement made by Pardeep Kumar s/o Vijender under Section 161 Cr.P.C. on

2024:PHHC:077430



31.08.2021 to the following effect:-

“Stated that I reside at the above address with my family. On 30.08.2021 on the occasion of Janmashtmi we had brought pot of curd (*Dahi ki Matki*) from Varindavan and were offering the same at Shiv Mandir, Bhatpura Road, Sotal. I together with Dharmender s/o Samay Singh and our family members were present at the temple, there Om Parkash s/o Ranjita, Naveen s/o Tejpal and his family members had already offered pot of curd (*Dahi ki Matki*) at the temple prior to us. At that time Narvir @ Sonu who was with Om Parkash was having pistol in his hand, Tejpal @ Changa s/o Ranjita was having farsa in his hand, Kanwarpal @ Bholi s/o Ranjita was having lathi in his hand, Om Parkash @ Babbar s/o Ranjita was having sword in his hand, Naveen @ Nanga s/o Tejpal was having farsa in his hand, Rohit Rana was having danda in his hand, Yogesh s/o Roop Chand was having danda in his hand, Lekhu s/o Joginder was having danda in his hand, Chander Bhan s/o Sahzad was having danda in his hand, Surya Dev s/o Bachu was having danda in his hand, Manoj s/o Ranbir was having danda in his hand. They in connivance with each other were ready in advance for quarrel and fight. Chander Bhan threatened Dharmender with killing him and abused him. He said that today you would be taught a lesson for all the earlier quarrels. Dharmender with folded hands was taking away his family members from the spot. In the meanwhile Dharmender and his son Pushpender and Pardeep s/o Bijender, Jeetu s/o Babu Ram and myself were following his family members. Dharmender was not aware that Bhupender was behind us. All the above

2024:PHHC:077430



persons closed the mouth of Bhupender and forcibly took him to the paddy fields. When we had moved few steps ahead of the temple then we heard a noise of fire shot. When we turned back and ran towards the place from where fire shot noise had come then all of them were giving beatings to Bhupender. When we tried to rescue him then all of them attacked us. In the defence Pushpender, Pardeep, Jeetu and myself were inflicted injuries and they said that today you have been saved and we will see you later. When we lifted Bhupender from the paddy field then he told us that all of them had closed my mouth and they forcibly dragged me. Bhupender also told that Narvir @ Sonu had fired shot on him and all the above persons had attacked me with the weapons they were holding in their hands. Saying this Bhupender got unconscious and thereafter we took Bhupender to Sarvodaya Hospital for treatment. Doctor sir declared him dead. I and Bahadur, Jeetu, and Pushpender got our MLR done from Sarvodaya Hospital. **Babbar @ Om Parkash s/o Ranjeeta gave an injury on my back with the Sword which he was holding in his hand.** Chagga @ Tejpal s/o Ranjeeta, Naveen s/o Tejpal also attacked me on my back with the Farsa's they were holding in their hands. Lekhu s/o Joginder, Yogesh s/o Roop Chand also attacked me on my head with the dandas they were holding in their hands. I defended myself with the help of my hands. Legal action be taken against him.xxx”

6. The allegation as per the same against the petitioner is of having caused injury on the back of Pardeep Kumar s/o Vijender with sword.

2024:PHHC:077430



7. Counsel for the petitioner has further drawn attention of this Court to the medico legal report regarding Pardeep Kumar, wherein injury on the back of Pardeep Kumar has been described as under:-

**“MULTIPLE (6) LINEAR ABRASIONS
ON UPPER BACK LARGEST BIENG 6 CMM
APROX ON RIGHT SIDE.”**

8. Further submits that similarly placed co-accused namely Suryadev, Manoj, Chander Bhan, Kanwarpal @ Bholi, Lekhra @ Lehra, Yogesh Kumar and Rohit Ranai already stand admitted to regular bail by this Court vide Annexures P-6 to P-8. The complainant Dharmender already stands examined and thus there cannot be any apprehension that the petitioner shall tamper with the evidence.

9. Custody certificate has been produced. As per the same, the petitioner is behind bars for more than 02 years, 07 months and 15 days.

10. Learned State counsel as well as counsel for the complainant have opposed the bail plea, asserting that there is a serious allegation against the petitioner. The matter relates to brutal murder of 20 years old boy and thus the petitioner does not deserve concession of regular bail.

11. I have heard rival contentions made by counsel representing the parties.

12. None of them is in position to dispute the fact that so far as the deceased is concerned, no injury has been attributed to the petitioner. Injury attributed to the petitioner is on the back of Pardeep

2024:PHHC:077430



Kumar which is in form of linear abrasions. Grant of bail to the co-accused(s) is matter of record.

13. In view thereof, without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner, the nature of allegation against him and the nature of evidence, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

14. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

29.05.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No